

AMENDED IN ASSEMBLY APRIL 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1476**

**Introduced by Assembly Member Chavez**

February 21, 2003

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An act to amend Sections 5019.65, 5097.94, 5097.96, and 21083.9 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1476, as amended, Chavez. State park system: environmental quality.

(1) *Under existing law, state reserves consist of areas embracing outstanding natural or scenic characteristics of statewide significance.*

*This bill would also designate, as state reserves, areas containing outstanding cultural resources of statewide significance. The bill would describe these areas as places that contain historic or prehistoric structures, villages, or settlements, archaeological features, ruins, artifacts, inscriptions made by humans, burial grounds, landscapes, hunting or gathering sites, or similar evidence of past human lives or cultures.*

(2) Under existing law, the Native American Heritage Commission has various powers and duties with regard to Native American sites and sacred places.

This bill would make technical, nonsubstantive changes in those provisions.

~~(2)~~

(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify

the completion of, an environmental impact report (EIR) on any project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds the project will not have that effect. CEQA also requires a lead agency to call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation, and for a project of statewide, regional, or areawide significance.

This bill would make a technical, nonsubstantive ~~change~~ changes in those provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1.   *Section 5019.65 of the Public Resources Code*  
2     *is amended to read:*

3     5019.65. State reserves consist of areas embracing  
4     outstanding natural or scenic characteristics *or areas containing*  
5     *outstanding cultural resources* of statewide significance. ~~The~~  
6     ~~purpose of a state reserve is to preserve its~~ *State reserve units may*  
7     *be established in the terrestrial or nonmarine aquatic (lake or*  
8     *stream) environments of the state and shall be further classified as*  
9     *one of the following types:*

10    (a) *State natural reserves, consisting of areas selected and*  
11    *managed for the purpose of preserving their native ecological*  
12    associations, unique faunal or floral characteristics, geological  
13    features, and scenic qualities in a condition of undisturbed  
14    integrity. Resource manipulation shall be restricted to the  
15    minimum required to negate the deleterious influence of man.

16    Improvements undertaken shall be for the purpose of making  
17    the areas available, on a day use basis, for public enjoyment and  
18    education in a manner consistent with the preservation of their  
19    natural features. Living and nonliving resources contained within  
20    state *natural* reserves shall not be disturbed or removed for other  
21    than scientific or management purposes.

22    ~~State reserves may be established in the terrestrial or nonmarine~~  
23    ~~aquatic (lake or stream) environments of the state.~~

24    (b) *State cultural reserves, consisting of areas selected and*  
25    *managed for the purpose of preserving and protecting the integrity*

1 *of places that contain historic or prehistoric structures, villages,*  
2 *or settlements, archaeological features, ruins, artifacts,*  
3 *inscriptions made by humans, burial grounds, landscapes, hunting*  
4 *or gathering sites, or similar evidence of past human lives or*  
5 *cultures. These areas may also be places of spiritual significance*  
6 *to California Native Americans. Within state cultural reserves, the*  
7 *highest level of resource protection shall be sought. Improvements*  
8 *may be undertaken for the purpose of providing public access,*  
9 *enjoyment, and education, and for cultural resource protection.*  
10 *Improvements made for the purpose of cultural resource protection*  
11 *shall take into account the possible need for access to the site for*  
12 *ceremonial or spiritual purposes. Living and nonliving resources*  
13 *contained within state cultural reserves may be used for*  
14 *ceremonial or spiritual purposes, consistent with other laws, and*  
15 *if the use is not harmful to threatened or endangered species or to*  
16 *the cultural resources intended for protection by this designation.*  
17 *Removal of natural resources from a site for ceremonial or*  
18 *spiritual purposes shall be done in accordance with any*  
19 *established permit process and any other law. Management*  
20 *actions shall be consistent with the preservation of cultural*  
21 *resources.*

22 SEC. 2. Section 5097.94 of the Public Resources Code is  
23 amended to read:

24 5097.94. The commission has the following powers and  
25 duties:

26 (a) To identify and catalog places of special religious or social  
27 significance to Native Americans, and known graves and  
28 cemeteries of Native Americans on private lands. The  
29 identification and cataloguing of known graves and cemeteries  
30 shall be completed on or before January 1, 1984. The commission  
31 shall notify landowners on whose property these graves and  
32 cemeteries are determined to exist, and shall identify the Native  
33 American group most likely descended from those Native  
34 Americans who may be interred on the property.

35 (b) To make recommendations relative to Native American  
36 sacred places that are located on private lands, are inaccessible to  
37 Native Americans, and have cultural significance to Native  
38 Americans for acquisition by the state or other public agencies for  
39 the purpose of facilitating or assuring access thereto by Native  
40 Americans.

1 (c) To make recommendations to the Legislature relative to  
2 procedures that will voluntarily encourage private property  
3 owners to preserve and protect sacred places in a natural state and  
4 to allow appropriate access to Native American religionists for  
5 ceremonial or spiritual activities.

6 (d) To appoint necessary clerical staff.

7 (e) To accept grants or donations, real or in kind, to carry out  
8 the purposes of this chapter.

9 (f) To make recommendations to the Director of Parks and  
10 Recreation and the California Arts Council relative to the  
11 California State Indian Museum and other Indian matters touched  
12 upon by department programs.

13 (g) To bring an action to prevent severe and irreparable damage  
14 to, or assure appropriate access for Native Americans to, a Native  
15 American sanctified cemetery, place of worship, religious or  
16 ceremonial site, or sacred shrine located on public property,  
17 pursuant to Section 5097.97. If the court finds that severe and  
18 irreparable damage will occur or that appropriate access will be  
19 denied, and appropriate mitigation measures are not available, it  
20 shall issue an injunction, unless it finds, on clear and convincing  
21 evidence, that the public interest and necessity require otherwise.  
22 The Attorney General shall represent the commission and the state  
23 in litigation concerning affairs of the commission, unless the  
24 Attorney General has determined to represent the agency against  
25 whom the commission's action is directed, in which case the  
26 commission shall be authorized to employ other counsel. In any  
27 action to enforce this subdivision, the commission shall introduce  
28 evidence showing that the cemetery, place, site, or shrine has been  
29 historically regarded as a sacred or sanctified place by Native  
30 American people and represents a place of unique historical and  
31 cultural significance to an Indian tribe or community.

32 (h) To request and utilize the advice and service of all federal,  
33 state, local, and regional agencies.

34 (i) To assist Native Americans in obtaining appropriate access  
35 to sacred places that are located on public lands for ceremonial or  
36 spiritual activities.

37 (j) To assist state agencies in any negotiations with agencies of  
38 the federal government for the protection of Native American  
39 sacred places that are located on federal lands.

(k) To mediate, upon application of either of the parties, disputes arising between landowners and known descendents relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials.

The agreements shall provide protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction and provide for sensitive treatment and disposition of Native American burials, skeletal remains, and associated grave goods consistent with the planned use of, or the approved project on, the land.

(l) To assist interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.

~~SEC. 2.~~

SEC. 3. Section 5097.96 of the Public Resources Code is amended to read:

5097.96. The commission may prepare an inventory of Native American sacred places that are located on public lands and shall review the current administrative and statutory protections accorded to these places. The commission shall submit a report to the Legislature no later than January 1, 1979, in which the commission shall report its findings as a result of these efforts and shall recommend those actions the commission deems necessary to preserve these sacred places and to protect the free exercise of the Native American religions.

~~SEC. 3.~~

SEC. 4. Section 21083.9 of the Public Resources Code is amended to read:

21083.9. (a) Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for either of the following:

(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

(2) A project of statewide, regional, or areawide significance.

1 (b) The lead agency shall provide notice of at least one scoping  
2 meeting held pursuant to paragraph (2) of subdivision (a) to all of  
3 the following:

4 (1) Any county or city that borders on a county or city within  
5 which the project is located, unless otherwise designated annually  
6 by agreement between the lead agency and the county or city.

7 (2) Any responsible agency.

8 (3) Any public agency that has jurisdiction by law with respect  
9 to the project.

10 (4) Any organization or individual who has filed a written  
11 request for the notice.

12 (c) For any entity, organization, or individual that is required  
13 to be provided notice of a lead agency public meeting, the  
14 requirement for notice of a scoping meeting pursuant to  
15 subdivision (b) may be met by including the notice of a scoping  
16 meeting in the public meeting notice.

17 (d) A scoping meeting that is held in the city or county within  
18 which the project is located pursuant to the National  
19 Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) and the  
20 regulations adopted pursuant to that act shall be deemed to satisfy  
21 the requirement that a scoping meeting be held for a project subject  
22 to paragraph (2) of subdivision (a), if the lead agency meets the  
23 notice requirements of subdivision (b) or subdivision (c).

